

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 06-59-P-S
)	
JAMES PULK, SR. and ELAINE PULK,)	
)	
Defendants)	

**MEMORANDUM DECISION ON MOTION OF DEFENDANTS JAMES PULK AND
ELAINE PULK FOR RECONSIDERATION**

Defendants James Pulk, Sr. and Elaine Pulk move for reconsideration of my denial of their motion for an order directing the government to produce the personnel files of all law enforcement personnel whom it intends to call as witnesses at trial. Motion for Reconsideration of Order Denying Motion to Produce, etc. (Docket No. 115) at 1. They contend that they are not required to make any initial showing that the requested files contain impeaching material “or material evidence at all” in order to request their production by the government, citing *United States v. Henthorn*, 931 F.2d 29, 31 (9th Cir. 1991), and a section of the *United States Attorneys’ Manual*. *Id.* at 1-2. This assertion is correct, as far as it goes, but it does not serve to require a different result than the denial of the initial motion.

In *Henthorn*, the Ninth Circuit held that the government has a duty to examine such files upon a defendant’s request for their production and that the files “need not be furnished to the defendant or the court unless they contain information that is or may be material to the defendant’s case.” 931 F.2d at 31. Nothing in *Henthorn* or Chapter 9-5.100 of the *United States Attorneys’ Manual* (United States Dep’t of Justice, Oct. 1997) requires the government to produce the entire personnel file of potential law

enforcement witnesses merely upon a defendant's request. In this case, the government has represented that it "will comply with its responsibilities to review the personnel files of agents who may serve as witnesses; and the Government will disclose any impeachment information regarding criminal investigations."

Government's Consolidated Memorandum of Law in Response and Opposition to Defendants James and Elaine Pulk[']s Pretrial Motions (Docket No. 103) at 7. Nothing further is required. *Henthorn*, 931 F.2d at 31.

The motion for reconsideration is **DENIED**.

Dated this 24th day of January 2007.

/s/ David M. Cohen
David M. Cohen
United States Magistrate Judge

Defendant

JAMES PULK, SR (5)

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Defendant

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